

**UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS**

JORDAN ROY, ANGEL SULLIVAN-  
BLAKE and JUSTIN TRUMBULL, on behalf  
of themselves and others similarly situated,

Plaintiffs,

v.

FEDEX GROUND PACKAGE SYSTEM,  
INC.,

Defendant.

Case No.: 3:17-cv-30116-KAR

**DEFENDANT FEDEX GROUND PACKAGE SYSTEM, INC.'S PARTIALLY  
UNOPPOSED MOTION TO COMPEL DISCOVERY FROM SUBSTITUTE  
DISCOVERY OPT-IN PLAINTIFFS**

FedEx Ground moves to compel discovery responses from two categories of substitute discovery opt-in Plaintiffs.

FedEx Ground conferred with Plaintiffs' counsel on April 6<sup>th</sup> and 8<sup>th</sup>, 2022, and Plaintiffs' counsel indicated Plaintiffs will not oppose the relief requested as to opt-in Plaintiffs Diep, Hamzh, Souza, J., and Souza, S. As for opt-in Plaintiffs Fowler and Marcheselli, Plaintiffs' counsel have indicated that they are following up with those opt-ins for the requested documents and hope to have the documents produced or at least an answer on when and if they will be produced by the time they respond to this motion. So, at least at this time, Plaintiffs oppose the relief requested herein as to those two opt-ins.

**I. SUBSTITUTE DISCOVERY OPT-INS WHO HAVE NOT RESPONDED AT ALL**

Four opt-in Plaintiffs, who were served with a discovery questionnaire on March 18, 2021, have yet to provide any written response to the questionnaire or documents requested by the questionnaire:

1. Diep
2. Hamzh
3. Souza, J.
4. Souza, S.

For the reasons set forth in FedEx Ground's previous motions to compel and replies in support and its motion for reconsideration (ECF 194, 204, 210, 217, 222) and the Court's previous discovery orders (ECF 185, 221), FedEx Ground seeks an order compelling the above four opt-in Plaintiffs to produce completed questionnaires and all requested documents within 14 days of entry of the Court's order or face dismissal with prejudice.

## **II. SUBSTITUTE DISCOVERY OPT-INS WHO SHOULD HAVE DOCUMENTS**

Opt-in Plaintiff Fowler was served a discovery questionnaire on March 18, 2021. She responded in June 2021: “I have W-2s, tax returns, pay stubs.” (Fowler Resp. at 4, attached as Exhibit A.) Despite the fact that she is still a current driver, she has produced no documents.

Opt-in Plaintiff Marcheselli also was served a questionnaire on March 18, 2021. He was a current driver as of May 21, 2021. Mr. Marcheselli responded in June 2021:

I have a couple paystubs from EMC Trucking, Inc. I have a 2020 W2 from EMC Trucking. I have 2020 and 2019 W2s from ABC Express. I have 2019, 2018, and 2017 W2s from Up from the Ground. I have a 2017 W2 from JEP.

(Marcheselli Resp. at 4, attached as Exhibit B.)

Mr. Marcheselli produced 10 pages of documents including the above-referenced W2s plus an illegible May 21, 2021 pay stub from EMC and an illegible May 14, 2021 pay stub from EMC.

Because Ms. Fowler is still a current driver and Mr. Marcheselli was a current driver when served, and for the reasons set forth in FedEx Ground’s previous motions to compel and replies in support and its motion for reconsideration (ECF 194, 204, 210, 217, 222) and the Court’s previous discovery orders (ECF 185, 221), FedEx Ground seeks an order compelling opt-in Plaintiffs Fowler and Marcheselli to produce all requested documents within 30 days of entry of the Court’s order or provide a supplemental questionnaire response stating their efforts to obtain the requested documents. If they fail to comply, they should face dismissal with prejudice.

Dated: April 11, 2022

Respectfully submitted,

/s/ Jessica G. Scott

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Attorneys for Defendant,

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**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a true and correct copy of the foregoing **DEFENDANT FEDEX GROUND PACKAGE SYSTEM, INC.'S PARTIALLY UNOPPOSED MOTION TO COMPEL DISCOVERY FROM SUBSTITUTE DISCOVERY OPT-IN PLAINTIFFS** was filed through the ECF system and will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF) and paper copies will be sent to those indicated as non-registered participants on April 11, 2022.

The following are those who are currently on the list to receive e-mail notices for this case.

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/s/ Jessica G. Scott